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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/517,116

12/03/2004

Helmüt Sieber

2002CH004

3131

25255 7590 04/27/2007

CLARIANT CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
4000 MONROE ROAD
CHARLOTTE, NC 28205

EXAMINER

KHAN, AMINA S

ART UNIT

PAPER NUMBER

1751

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/517,116

Applicant(s)

SIEBER, HELMUT

Examiner

Amina Khan

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/8/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5,11,13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Bohler (US 4,439,562).

Bohler teaches dyeing polyester with dyestuffs of formula Ib where the R substituents are hydrogens and the Me substituents is nickel (column 4, example 1). Bohler further teaches producing polyester yarns from the dyed polyester.

Accordingly, Bohler anticipates the material limitations of the instant claims.

4. Claims 1-5,11 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Papenfuhs et al. (US 4,265,632).

Papenfuhs et al. teach dyeing polyester with dyestuffs of the instantly claimed formula (I) (columns 6-8, examples). Papenfuhs et al. further teaches producing polyester filaments, fibers and shaped articles from the dyed polyester (column 6, lines 5-20).

Accordingly, Papenfuhs anticipate the material limitations of the instant claims.

5. Claims 1,2,6,7,11 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Shirasaki et al. (US 5,942,011).

Shirasaki et al. teach dyeing polyester fibers with dyestuffs of the copper complex type and C.I. Disperse Yellow 64, C.I. Disperse Red 60 and C.I. Disperse Blue 56 (column 7, example 13).

Accordingly, Shirasaki anticipate the material limitations of the instant claims.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-17 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Mach et al. (2001/0004780).

Mach et al. teach dyeing polyesters with dye mixtures comprising C.I. Solvent Brown 53 and C.I. Disperse Violet 57 (page 1, paragraphs 0010-0012). Mach et al. further teach printing the textiles with the same dye combinations (page 1, paragraph 0014). Mach et al. further teach producing military camouflage articles with the dyed fibers (page 1, paragraph 0009). While Mach et al. is silent as to producing clothing from the textiles, this would be encompassed by the teachings of Mach et al. since camouflage military uniforms are commonly produced from dyed polyester.

Accordingly, Mach et al. anticipate the limitations of the instant claims.

In the alternative, if the teachings of Mach et al. are not sufficient to anticipate the material limitations of the instant claims, it would have been nonetheless obvious to select the instantly claimed components from the teachings of Mach et al. to arrive at the instant invention because Mach et al. teach similar textiles dyed by similar dyes with similar methods. Mach et al. further teach producing camouflage articles with high fastness levels and methods that are more economical. It would further have been obvious to produce clothing from the dyed polyester textile because military uniforms are commonly camouflage and polyester is a well-known component of textile materials.

Art Unit: 1751

One of ordinary skill in the art would have been motivated to modify the teachings of Mach et al. to arrive at the instant invention absent unexpected results.

8. Claims 1-3,7,11 and 12 are rejected under 35 U.S.C. 103(a) as obvious over Reinert et al. (US 4,895,981).

Reinert et al. teach dyeing polyester with metal complex dyes mixed with disperse dyes, where the metal may be copper, nickel or chromium and where the disperse dye may be C.I. Disperse Yellow 142, C.I. Disperse Blue 60, C.I. Disperse Violet 57 or Disperse Red 302 (column 4, lines 64-68; column 5, lines 1-25; column 10, lines 15-30)

Reinert et al. do not teach all the instantly claimed embodiments in a single example.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select the instantly claimed components from the teachings of Reinert et al. to arrive at the instant invention because Reinert et al. teach similar textiles dyed by similar dyes with similar methods. Reinert et al. further teach producing dyed articles with improved photochemical stability. It would further have been obvious to produce clothing from the dyed polyester textile because Reinert et al. teach producing knitted or woven fabrics, which are well known component of clothing. One of ordinary skill in the art would have been motivated to modify the teachings of Reinert et al. to arrive at the instant invention absent unexpected results.

Conclusion

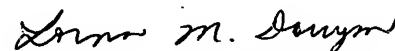
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amina Khan whose telephone number is (571) 272-5573. The examiner can normally be reached on Monday through Friday, 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



AK
April 24, 2007


LORNA M. DOUYON
PRIMARY EXAMINER